

Objection Deadline: February 17, 2014 @ 4:00 p.m. (Prevailing Central Time)
Hearing Date (if necessary): March 25, 2014 @ 10:00 a.m. (Prevailing Central Time)

GORDON & GORDON, P.S.C.
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M. Kirby Gordon, II

*Special Counsel for the Debtors
and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re

PATRIOT COAL CORPORATION, *et al.*,

Debtors.

Chapter 11

Case No. 12-51502-659

(Jointly Administered)

**SUMMARY SHEET PURSUANT TO UNITED STATES TRUSTEE
GUIDELINES FOR REVIEWING APPLICATIONS FOR
COMPENSATION FILED UNDER 11 U.S.C. §§330 AND 331**

FIRST AND FINAL FEE APPLICATION

NAME OF APPLICANT:	GORDON & GORDON, P.S.C.
ROLE IN CASE:	Special Counsel to Debtors
TIME PERIOD:	August 1, 2013 through and including December 31, 2013
CURRENT APPLICATION:	Total Fees Requested: \$205,408.25 Total Expenses Requested: \$2,062.88
PRIOR APPLICATIONS:	None.

I. Attorney Member:

Name of Attorney Member (Initials)	Year Admitted	Hourly Rate	Total Hours	Total Fees
M. Kirby Gordon, II (KG)	1975-KY	\$180.00	685.40	\$123,732.00
M. Kirby Gordon, II (KG)	1975-KY	\$150.00	87.20	\$ 12,780.00
TOTAL:			772.60	\$136,512.00

II. Paraprofessionals:

Name of Paraprofessionals (Initials)	Hourly Rate	Total Hours	Total Fees
Diane S. Yager (DY)	\$85.00	37.75	\$ 3,208.75
Diane S. Yager (DY)	\$70.00	18.00	\$ 1,260.00
Robyn C. Staples (RS)	\$85.00	291.85	\$24,807.25
Robyn C. Staples (RS)	\$70.00	107.00	\$ 7,490.00
Kimberly Miller (KM)	\$85.00	285.85	\$24,297.25
Kimberly Miller (KM)	\$70.00	111.90	\$ 7,833.00
TOTAL:		852.35	\$68,896.25

GRAND TOTAL:	\$205,408.25
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Attorney Blended Rate

Attorney	Attorney Blended Rate	Total Attorney Hours	Total Attorney Fees
M. Kirby Gordon, II	\$176.692	772.60	\$136,512.00

III. Expenses

Category of Expenses	Amounts
Photocopy Charges [CODE 1540-08010-7600]	\$627.40
Court and other fees [CODE 1540-08010-7600]	\$450.00
Outside document retrieval [CODE 1540-08010-7600]	\$403.00
FedEx Williams Tr. [CODE 1540-08010-7600]	\$238.22
Outside document retrieval [CODE 1545-08010-7600]	\$241.50
Photocopy Charges [CODE 1545-08010-7600]	\$102.76
Total	\$2,062.88

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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re

PATRIOT COAL CORPORATION, *et al.*,

Debtors.

Chapter 11

Case No. 12-51502-659

(Jointly Administered)

**FIRST AND FINAL FEE APPLICATION
OF GORDON & GORDON, P.S.C. FOR ALLOWANCE OF COMPENSATION**

TO THE HONORABLE KATHY A. SURRATT-STATES,
UNITED STATES BANKRUPTCY JUDGE:

Gordon & Gordon, P.S.C. (“**Gordon & Gordon**”), special counsel to Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”), for its First and Final Fee Application (the “**Application**”), pursuant to §§ 330(as) and 331 of Title 11 of the United States Code (the “**Bankruptcy Code**”) and Rule 2016 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), for allowance of compensation for professional services performed

by Gordon & Gordon during the period commencing August 1, 2013, through and including December 31, 2013 (the “**Compensation Period**”), respectfully represents:

Preliminary Statement

1. Debtors retained Gordon & Gordon as special counsel to continue providing advice and representation in land related litigation and administrative proceedings in Kentucky

2. As special counsel, it has been necessary for Gordon & Gordon to expend time, energy, and resources to help Debtors address the various and complex issues that arise in the operation of Debtors’ West Kentucky facilities.

3. Gordon & Gordon has tried to be as efficient as possible to minimize cost to the Debtors’ estates.

4. As described in further detail herein, Gordon & Gordon’s efforts to advise and represent the Debtors during the Compensation Period have benefited Debtors. Among other things, Gordon & Gordon (a) assisted the Debtors with disposition of surface properties and coal, oil, and gas interests in Kentucky, (b) in support of Debtors’ coal and land development activities in Kentucky, prepared all necessary and appropriate surface and coal deeds, leases and subleases, purchase and lease options, lease assignments, land purchase and sale contracts, coal conveyor beltline and power transmission line easements and right-of-way agreements, and land use agreements, (c) the performance of title examinations and lien searches and the submission to Debtors of title opinion certification letters and reports, and (d) representation of the Debtors in land related litigation and administrative proceedings in Kentucky. Gordon & Gordon’s fees for professional services are reasonable under applicable standards. For all of these reasons, Gordon & Gordon

requests the Court grant this Application and allow the compensation for professional services described herein.

Background

5. On July 9, 2012 (the “**Petition Date**”), Patriot Coal Corporation and substantially all of its affiliated subsidiary companies (“**Debtors**”) filed voluntary petitions for Chapter 11 Relief [ECF No. 1], Debtors’ cases are being jointly administered by order of this Court [ECF No. 30].

6. Debtors retained Gordon & Gordon with authorization by the United States Bankruptcy Court for the Eastern District of Missouri, Eastern Division pursuant to its *Order Authorizing the Employment and Retention of Gordon & Gordon, P.S.C. as Special Counsel for the Debtors Effective August 1, 2013*, entered July 26, 2013 [ECF No. 4381] (“**Gordon & Gordon Employment Order**”) to continue to render professional services (collectively the “**Authorized Representation**”):

- a. prepare, on behalf of the Debtors in support of Debtors’ coal and land development activities in Kentucky, all necessary and appropriate surface and coal deeds, leases and subleases, purchase and lease options, lease assignments, land purchase contracts, coal conveyor beltline and power transmission line easements and right-of-way agreements, and land use agreements, together with any complaints, petitions, motions, proposed orders, other pleadings, notices and other documents in connection with certain land related litigation and administrative proceeding in Kentucky (the “**Retained Matters**”);
- b. advise and assist the Debtors in connection with or concerning the Retained Matters including without limitation the performance of title examinations and lien searches and the submission to Debtors of title opinion certification letters and reports; and
- c. perform all other necessary or appropriate legal services in connection with or concerning the Retained Matters, including, without limitation, representation of the Debtors in land related litigation and administrative proceedings in Kentucky.

7. On July 18, 2012, the Office of the United States Trustee for the Southern District of New York (the “**U.S. Trustee**”) appointed the Creditors’ Committee pursuant to §§ 1102(a) and 1102(b) of the Bankruptcy Code. No trustee or examiner has been appointed in the Debtors’ Chapter 11 cases.

8. This Court has subject matter jurisdiction to consider and determine this matter pursuant to 28 U.S.C. § 1334 (2012). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) (2012). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409 (2012).

Summary of Requested Professional Compensation

9. This Application has been prepared in accordance with (a) Local Rules 2016-1 and 2016-2 and this Court’s Procedures Manual (the “**Local Guidelines**”), (b) the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 adopted on January 30, 1996 (the “**UST Guidelines**”), and (c) the *Order to Establish Procedures for Interim Monthly Compensation and Reimbursement of Expenses of Professionals* entered by the United States Bankruptcy Court for the Southern District of New York [ECF No. 262] (the “**Interim Compensation Order**” and, collectively with the Local Guidelines and the UST Guidelines, the “**Guidelines**”).

10. In accordance with the Interim Compensation Order, Gordon & Gordon filed its **Monthly Fee Statements** defined therein for its fees and expenses incurred each month since it was retained, incorporated herein by reference and made a part hereof. No party objected to any such Monthly Fee Statements and, pursuant to the Interim Compensation Order, Gordon & Gordon was paid 80% of the fees and 100% of the

expenses detailed in each Monthly Fee Statement covering the following periods: (a) from August 1, 2013 through August 31, 2013 [ECF No. 4633]; (b) from September 1, 2013 through September 30, 2013 [ECF No. 4772]; (c) from October 1, 2013 through October 31, 2013 [ECF No. 4997]; (d) from November 1, 2013 through November 30, 2013 [ECF No. 5179]; and, (e) from December 1, 2013 through December 31, 2013 [ECF No. 5197] (“**Monthly Fee Payments**”).

11. Other than the Monthly Fee Statements described above, Gordon & Gordon has not requested previously any compensation from the Court for professional services or reimbursement of expenses for the Compensation Period.

12. By this Application, Gordon & Gordon now submits its First and Final Application for approval of fees and expenses incurred from August 1, 2013, through December 31, 2013 including approval of payments made pursuant to Gordon & Gordon’s Monthly Fee Statements made pursuant to the Interim Compensation Order, as well as for allowance of payment of the remaining 20% of fees held back from the Monthly Fee Statements.

13. Gordon & Gordon seeks allowance in full of interim compensation for professional services rendered to the Debtors during the Compensation Period in the aggregate amount of \$205,408.25. During the Compensation Period, Gordon & Gordon attorneys and paraprofessionals expended a total of 1,624.95 hours for which compensation is sought.

14. As of the filing of this Application, Gordon & Gordon has received Monthly Fee Payments totaling \$164,326.60 for professional services rendered during the

Compensation Period, and totaling \$2062.88 for reimbursement of expenses incurred during the Compensation Period.

15. As of the filing of this Application, the total amount remaining unpaid for professional services rendered during the Compensation Period is \$41,081.65.

16. During the Compensation Period, other than pursuant to the Interim Compensation Order, Gordon & Gordon has received no payment and no promises of payment from any source for services rendered or to be rendered in any capacity whatsoever in connection with the matters covered by this Application. There is no agreement or understanding between Gordon & Gordon and any other person for the sharing of compensation to be received for services rendered in these cases.

17. The fees charged by Gordon & Gordon in these cases are billed in accordance with its agreed-upon billing rates and procedures in effect during the Compensation Period. The rates charged by Gordon & Gordon for the services rendered in these Chapter 11 cases do not (and will not) exceed the rates Gordon & Gordon customarily charges for services rendered in comparable matters. Such fees are reasonable based on the customary compensation charged by comparably-skilled practitioners in comparable assignments in a competitive national legal market.

18. Prior to filing this Application, Gordon & Gordon filed with the Court and served on the Debtors, the U.S. Trustee, counsel to the Creditors' Committee, and counsel to the Debtors' post-petition lenders the Monthly Fee Statements identified in paragraph 10 above, incorporated herein by reference and made a part hereof, setting forth Gordon & Gordon's fees for professional services rendered and expenses incurred from August 1, 2013 through December 31, 2013.

19. Pursuant to the UST Guidelines, annexed to the U. S. Trustee summary section preceding this Application is a schedule setting forth all Gordon & Gordon professionals and paraprofessionals who have performed services in these Chapter 11 cases during the Compensation Period, the capacities in which each such individual is employed by Gordon & Gordon, the hourly billing rates charged by Gordon & Gordon for services performed by such individual for the Debtors, the year in which each professional was first licensed to practice law, and the aggregate number of hours expended in this matter and fees billed therefor.

20. Pursuant to UST Guidelines, annexed hereto as Exhibit A is a summary of the number of hours and amounts billed by Gordon & Gordon and Exhibit B is a summary of expenses billed by Gordon & Gordon during the Compensation Period, organized by project categories. Annexed hereto as Exhibit C is a current Statement of Account for the Compensation Period.

21. Gordon & Gordon maintains computerized records of the time spent by all Gordon & Gordon attorneys and paraprofessionals in connection with the Debtors' Chapter 11 cases.

Summary of Services

22. During the Compensation Period, Gordon & Gordon provided extensive legal services to the Debtors regarding various issues typically faced by coal operators. Recitation of each and every item of professional services performed by Gordon & Gordon during the Compensation Period would be extremely burdensome. Hence, the following summary highlights the major areas to which Gordon & Gordon devoted time and attention during the Compensation Period. The summary is organized in accordance with Gordon &

Gordon's internal system of project categories. Exhibit A provides a breakdown of the time devoted and fees allocable to each project category during the Compensation Period:

(a) Asset Distribution – DIP Proceedings [798-7120-7600]. Gordon & Gordon provided limited services in connection with matters in the Debtors' bankruptcy proceeding with regard to coal lease rejections, subsidiary transfers, local office leases, entity simplification and qualification plans, and exit financing.

(b) Business Operations – Workmen's Compensation Lien Release, Ohio [798-7120-7600]. Gordon & Gordon consulted with the Debtors regarding Ohio Attorney General Lien Release with respect to a workmen's compensation claim and preparation of lien release to be recorded in Franklin County, State of Ohio with regard to post-petition matters of the Debtors' businesses.

(c) Business Operations – Wetlands Mitigation, Henderson Co., Ky. [2440-06310-7600] Gordon & Gordon worked with Debtors in negotiations and informational meetings with the United States Army Corps of Engineers, zoning and land use restrictions, assignment of interest in options to purchase, stream and wetland mitigation plans with protective or restrictive covenants involved, and preparation of related contracts and deeds with regard to post-petition operations of the Debtors' businesses.

(d) Business Operations – Henderson County Reserves/Leases [1540-08010-7600]. Gordon & Gordon provided extensive third party lease support, third party lease preparation, and prospective owned and leased property title searches and title certifications with respect to the Corydon Resources LLC mining operations and the Highland Mine operations in Henderson County, Ky. with regard to post-petition operations of the Debtors' businesses.

(e) Business Operations – Power Line Easements – Henderson/Union Counties, Ky. [0317-06310-7600]. Gordon & Gordon participated extensively in the support of the selection of properties over which a power line easement was to be constructed from the Highland #9 Underground Mine airshaft property in Henderson County to the Highland #9 Underground Mine in Union County, Ky.; preparation of all Easement Agreements with each respective landowner and short form Easement Agreement to be placed of record; ingress and egress issues; title certification work; work with Debtors regarding Kentucky Utilities and Big Rivers Electric existing power line easements and metering agreements; work on PACE restriction on property to be Optioned, all with regard to post-petition operations of the Debtors' businesses.

(f) Business Operations – Conservancy District, Muhlenberg Co., Ky [1542-08010-7600]. Gordon & Gordon assisted in the response to County counsel inquiries as to boundary issues with respect to a conservancy drainage easement adjacent to Debtors' owned property in Muhlenberg County with regard to post-petition operations of the Debtors' businesses in Muhlenberg County, Ky.

(g) Asset Distribution – Union County , Ky. Alliance Resource Properties Transaction [1545-08010-7600]. Gordon & Gordon provided Debtors’ with extensive documentation preparation, due diligence support, coal tract identification support, and closing support with respect to the conveyance, assignment, partial assignment, and lease and sublease of various tracts in Union County and Henderson County, Kentucky, with respect to the #11 vein or seam of coal and all of the coal lying below the bottom of the #9 vein or seam of coal in the Highland Reserves Area and the Gryphon Reserves Area to Alliance Resource Properties, LLC, with respect to Debtors’ assets distribution in Henderson and Union Counties, Ky. approved by the bankruptcy court.

(h) Business Operations – Slurry Injection, Union County, Ky. [2115-06310-7600]. Gordon & Gordon prepared all documents with respect to the option and exercise of options for the injection of slurry in the #9 cavities and the #11 cavities in support of Debtors’ mining operations with respect to the post-petition operations of the Debtors’ business in Union County, Ky.

(i) Business Operations –Will Scarlet Hunting Lease, Illinois [0998-06310-0766]. Gordon & Gordon consulted with Debtors concerning the lease of certain properties in Illinois to third parties for a licensed hunting reserve.

The Requested Compensation Should be Allowed

23. Section 331 of the Bankruptcy Code provides for compensation of professionals and incorporates the substantive standards of § 330 to govern the Court’s award of such compensation. 11 U.S.C. § 331 (2012). Section 330 provides that a court may award a professional employed under § 327 of the Bankruptcy Code “reasonable compensation for actual, necessary services rendered ... and reimbursement of actual, necessary expenses.” Id. § 330(a)(1). Section 330 also set forth the criteria for the award of such compensation and reimbursement:

In determining the amount of reasonable compensation to be awarded ..., the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including –

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;

- (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
- (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and,
- (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

Id. § 330(a)(3).

24. In the instant case, Gordon & Gordon respectfully submits that the services for which it seeks compensation in this Application were necessary for and beneficial to the Debtors' estate and their rehabilitation and reorganization efforts. Such services were in the best interests of the Debtors' estates and creditors. Gordon & Gordon further submits that the compensation requested herein is reasonable in light of the nature, extent, and value of such services to the Debtors, their estates, and all parties in interest.

25. Wherever possible, Gordon & Gordon sought to minimize the costs of its services to the Debtors by utilizing talented paraprofessionals to handle more routine aspects of case administration.

26. The Local Guidelines required that all professional fee applications analyze the 12 factors for allowance of compensation set forth in Johnson v. Georgia Highway Express, 388 F.2d 714 (5th Cir. 1974) (the "Johnson Factors"); see also P. A. Novelly v. Palans, 960 F.2d 728 (8th Cir. 1992); Chamberlain v. Kula, 213 B.R. 729, 736-739 (B.A.P. 8th Cir. 1997).

27. Gordon & Gordon submits that its Application satisfies all of the Johnson Factors, as described below:

(a) The time and labor required. Gordon & Gordon has described in detail the time spent and has included a complete summary of the tasks performed in addition to providing detailed time entries for each Monthly Fee Statement.

(b) Novelty and difficulty of questions. Gordon & Gordon's services on behalf of the Debtors involved many issues peculiar to Debtors' operations and the coal industry in general. By virtue of its experience with the Debtors and the coal industry, Gordon & Gordon is well-suited to represent the Debtors in these matters.

(c) Skill required to perform legal services. While this Court is certainly the best judge of the skill demonstrated by Gordon & Gordon in this engagement, Gordon & Gordon believes that its professional and paraprofessionals have demonstrated consistently the skill levels necessary for the vigorous representation of the Debtors' interests in the matters they handled.

(d) Preclusion of employment due to acceptance. Acceptance of this case did not preclude Gordon & Gordon from other employment; however, the professional and paraprofessionals involved in this case devoted significant portions of their time to the Debtors' affairs and were, to that extent, unable to address other matters.

(e) The customary fees. The rates charged by Gordon & Gordon in this matter are commensurate with the rates it charges for similar clients on similar matters.

(f) Whether the fee is fixed or contingent. The fees requested in this Application are based on neither a fixed nor contingent fee basis; the fees are requested on an hourly basis.

(g) Time limitations imposed by client or circumstances. Representing Debtors in this bankruptcy case poses the normal time pressures inherent in any Chapter 11 case.

(h) The amount involved and the results obtained. Gordon & Gordon worked diligently to advocate for the Debtors and obtained results that were reasonable in the matters Gordon & Gordon handled.

(i) The experience, reputation, and ability of the attorneys. Gordon & Gordon is a full-service law firm well known in the Owensboro, Henderson, Union, Muhlenberg, Hopkins, and Ohio County-area. The professional and paraprofessionals representing the Debtors in this engagement are highly skilled and have many years of experience in the matters for which they are employed.

(j) The undesirability of the case. These are not undesirable cases. Gordon & Gordon is privileged to have the opportunity to represent the Debtors.

(k) The nature and length of the professional relationship with the client. Gordon & Gordon has represented the Debtors for more than thirty (30) years on matters similar to the ones for which it has been engaged in these cases.

28. In summary, approval of the compensation for professional services sought herein is warranted.

29. I hereby certify that (a) the fees and expenses requested in this Application are in compliance with the requirements of the Interim Compensation Order; and (b) that the Debtors have had an opportunity to review this Application prior to its filing and have approved the requested amounts.

WHEREFORE, Gordon & Gordon respectfully requests that this Court:

- (a) allow on an interim basis attorney's fees of \$205,408.25 and expenses of \$2,062.88 incurred during the Application Period;
- (b) authorize and direct the Debtors to make payment to Gordon & Gordon for all allowed fees and expenses that have not been paid to date; and,
- (c) grant Gordon & Gordon such other and further relief as is just and proper.

Dated: January 30, 2014
Owensboro, KY

Respectfully submitted,

GORDON & GORDON, P.S.C.

/s/ M. Kirby Gordon, II

M. Kirby Gordon, II (KBA#26183)

GORDON & GORDON, P.S.C.

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*Special Counsel for the Debtors
and Debtors in Possession*

EXHIBIT A

Summary of Hours and Amounts Billed During Compensation Period by Gordon & Gordon Organized by Internal Project Category Code

Project Category	Description	Project Code	Hours	Amounts
Asset Distribution	DIP Proceedings	798-7120-7600	11.2	\$ 1,829.00
Business Operations	Workmen's Compensation Lien Release, State of Ohio	798-7120-7600	1.0	\$125.00
Business Operations	Wetlands Mitigation, Henderson Co., Ky.	2440-06310-7600	65.5	\$10,111.50
Business Operations	Henderson County, Ky. Reserves/Leases - Corydon / Highland	1540-08010-7600	76.85	\$9,157.00
Business Operations	Power Line Easement, Henderson/Union, KY	0317-06310-7600	300.45	\$33,339.50
Business Operations	Conservancy District, Muhlenberg Co., Ky.	1542-08010-7600	.5	\$90.00
Business Operations	Illinois Will Scarlet Hunting Lease	0998-06310-7600	1.0	\$70.00
Asset Distribution	Alliance Transaction, Union Co., Ky.	1545-08010-7600	1157.75	\$149,640.25
Business Operations	Slurry Injection, Union Co., Ky.	2115-06310-7600	10.7	\$1,046.00
	Total:		1624.95	\$205,408.25

EXHIBIT B

Actual and Necessary Expenses Incurred During Compensation Period by Gordon & Gordon Organized by Internal Project Category Code

Category of Expenses	Amounts
Photocopy Charges [CODE 1540-08010-7600]	\$627.40
Court and other fees [CODE 1540-08010-7600]	\$450.00
Outside document retrieval [CODE 1540-08010-7600]	\$403.00
FedEx Williams Tr. [CODE 1540-08010-7600]	\$238.22
Outside document retrieval [CODE 1545-08010-7600]	\$241.50
Photocopy Charges [CODE 1545-08010-7600]	\$102.76
Total	\$2,062.88

EXHIBIT C

GORDON & GORDON, P.S.C.

P.O. Box 398
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STATEMENT OF ACCOUNT

FED. ID. #61-0967431

January 30, 2014

Eric E. Waller, Assistant General Counsel
Patriot Coal Services, LLC
900 Laidley Tower
P.O. Box 1233
Charleston, WV 25324

**In re: Patriot Coal Corporation Entities Matters
by Special Counsel for Debtors in Possession
First and Final Application for the period
August 1, 2013 through and including December 31, 2013**

BALANCE FORWARD: (total remaining unpaid 20% fees)

Balance per Statement (thru August 31, 2013)	\$ 6,391.60
Balance per Statement (thru September 30, 2013)	\$ 7,732.10
Balance per Statement (thru October 31, 2013)	\$11,123.65
Balance per Statement (thru November 30, 2013)	\$14,266.60
Balance per Statement (thru December 31, 2013)	\$ 1,567.70

BALANCE FORWARD: \$41,081.65

STATEMENT TOTAL: \$41,081.65